

REMARKS

Claims 1-12, 14, and 17-19 are pending. No new matter has been introduced.

Reexamination and reconsideration of the present application are respectfully requested.

In the December 18, 2002 Office Action, the Examiner rejected claims 1-12, 14, and 17-19. The Examiner rejected claims 1-7, 10-12, 14, and 18 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,018,571 to Langlois et al. (the Langlois reference), in view of Microsoft software programming. The Examiner rejected claim 17 under 35 U.S.C. § 103(a) as being obvious over the Langlois reference, in view of well-known prior art. The Examiner rejected claim 19 under 35 U.S.C. § 103(a) as being obvious over the Langlois reference, in view of Microsoft software programming, further in view of U.S. Patent No. 5,884,032 to Bateman et al. (the Bateman reference). These rejections are respectfully traversed.

The present invention relates to computer systems coupled to telephony devices. An operating system of the computer runs a dialer program and at least one application program lacking telephony capabilities that differs from the dialer program. The dialer program has an associated phone book file that is not associated with the application program. The dialer program determines activity status of the application program and provides telephony capabilities to the application program. Furthermore the dialer program retrofits a dialer representation on the title bar of a window in the application that lacks telephony capabilities.

Independent claim 19, as amended, recites:

executing, on an operating system platform, a dialer program and at least

one application program that differs from the dialer program,

wherein the at least one application program does not comprise a telephone application program or an operating system navigation utility, and

wherein the dialer program has an associated phone book file, the phone book file not being associated with the at least one application program;

by the dialer program, determining activity status of the at least one application program;

by the dialer program, *retrofitting a dialer representation on a title bar of a window of the at least one application program lacking telephony capabilities only when the at least one application program is active to provide the telephony capabilities to the at least one application program;*

by the dialer program, accessing the phone book file to search for a phone number to be dialed by the dialer program, the accessing being triggered when a user selects, via an input device, the retrofitted dialer representation; and

by the dialer program, searching the phone book file for the phone number based on a search key, the search key comprising text that is displayed in a window of the at least one application program and highlighted by the user via the input device before the user selects the retrofitted dialer representation.

The Langlois reference is directed to an interactive system that includes a software application and a telephone, which functions cooperatively to implement a multiplicity of user-invoked features. The telephone set is connected to a computer on which a telephony program interface application is executed. The telephone set includes a plurality of user-definable function keys, in addition to the standard keypad,

handset, speaker phone, and other standard components. The user-definable function keys are programmable via the computer to implement telephony features or to launch applications on the computer.

The Langlois reference does not disclose, teach, or suggest the apparatus of independent claim 19, as amended. Unlike independent claim 19, as amended, the Langlois reference does not teach *retrofitting a dialer representation on a title bar of a window of the at least one application program lacking telephony capabilities only when the at least one application program is active to provide the telephony capabilities to the at least one application program*. The Langlois reference discloses a telephony program interface application already having telephony capabilities for utilizing a telephony device (e.g., a USB phone) (see col. 6, line 35 *et. seq.*; and Figs. 3-8D). For example, the telephony program interface application includes features such as call screening to screen/identify calls, and call recording to record a telephone conversation with the computer (col. 8, lines 8-28). There is no teaching in the Langlois reference of *retrofitting a dialer representation on a title bar of a window of the at least one application program lacking telephony capabilities to provide the telephony capabilities to the at least one application program*, as recited in independent claim 19, as amended.

The Bateman reference does not make up for the deficiencies of the Langlois reference. The Bateman reference is directed to a Customer Contact Channel Changer that enables the integration of different Customer Contact Channels, such as a live call center, ACD (Automatic Call Distribution) agents, ADSI (Analog Display Services Interface) enhanced IVR (Interactive Voice Response) systems, and WWW (World

Wide Web) servers. The World Wide Web servers are used to allow customers with computer equipment to access information from an organization's databases in a self-service mode. Frequently these customers have questions best answered by human ACD agents. The connection between the customer with the question and the agent with the answer is performed quickly and efficiently with both parties sharing screens of common information.

The Bateman reference does not disclose, teach, or suggest the apparatus of independent claim 19, as amended. Unlike independent claim 19, as amended, the Bateman reference does not make mention at all of *retrofitting a dialer representation on a title bar of a window of the at least one application program lacking telephony capabilities only when the at least one application program is active to provide the telephony capabilities to the at least one application program*. The Bateman reference only teaches a system for coordinating communications via a Customer Contact Channel Changer system that supports a graphical World Wide Web browser and generation of a URL link for the product and service database (col. 5, lines 1-67). There is no teaching in the Bateman reference of *retrofitting a dialer representation on a title bar of a window of the at least one application program lacking telephony capabilities to provide the telephony capabilities to the at least one application program*, as recited in independent claim 19, as amended. Accordingly, applicants respectfully submit that independent claim 19, as amended, distinguishes over the prior art of record.

In a telephone interview with Examiner Harold on February 13, 2003, the Examiner indicated that retrofitting a dialer representation on a title bar of a non-dialer

application is taught by well-known Microsoft software programming, as was mentioned in the Examiner's Office Action. Applicant then raised a two-fold question: 1) was this limitation taught by well-known Microsoft software programming in *October of 1998* when this application was filed; and 2) what reference could the Examiner produce to support the Examiner's official notice. The Examiner indicated that he could produce a reference, but did not do so at the time.

Because neither Langlois nor Batemen teach retrofitting a dialer representation on a title bar of a window of at least one application program that is not a telephone application program or a system navigation utility, the Examiner relies on his official notice of that teaching by well-known Microsoft software programming to reject this application. The Manual of Patent Examining Procedure (MPEP) § 2144.03 states "facts so noticed serve to 'fill the gaps' which might exist in the evidentiary showing and should not comprise the principle evidence upon which a rejection is based" (quoting *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418. 420-21 (CCPA 1970) . Further quoting *In re Ahlert* at 1091, the MPEP states, "[A]ssertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work and allegations concerning specific 'knowledge' of the prior art, which might be peculiar to a particular art should also be supported. Furthermore, the applicant must be given the opportunity to challenge the correctness of such assertions and allegations."

Applicant now respectfully requests that the Examiner produce the pre-October 1998 reference supporting the Examiner's official notice as required by the Manual of Patent Examining Procedure (MPEP) § 2144.03. Applicant has performed a search and is unaware of any relevant art that pre-dates the filing date of the present

application. In the absence of the production of said reference, Applicant believes the application is in condition for allowance and a favorable action is requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call either of the undersigned attorneys at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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Date: February 24, 2003

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